The
REPORTER
For Conscience' Sake

VOLUME XIII | AUGUST - SEPTEMBER, 1956 | NUMBERS 8 & 9

Supreme Court Again Asked To Consider Supreme Being Clause

The Supreme Court has again been petitioned to consider the constitutionality of the Supreme Being clause in the Selective Service law's definition of conscientious objectors. J. M. Tietz, well-known California attorney in CO cases, has petitioned the United States Supreme Court for a writ of certiorari in the case of Arthur P. Clark, a Unitarian consicentious objector who was denied the I-O classification and refused induction. Clark was convicted by the District Court in Southern California in December, 1954, and his conviction was later confirmed in the Ninth Circuit Court.

When Clark filled out his classification questionnaire in 1948, he claimed to be a conscientious objector but his local board did not send him the special form for conscientious objectors and classified him I-A. Clark appealed this classification but the Department of Justice recommended against his claim as a conscientious objector on the grounds that he did not believe in a Supreme Being. Clark was ordered to report for induction but refused. In March, 1953, his case came to court but was dismissed upon motion of the government when the judge indicated that he would admit the FBI reports into evidence.

Again Clark was classified by Selective Service. However, this time when Clark appealed the local board's classification denying him the CO claim, the Department of Justice did not provide the investigation, interview with hearing officer, and recommendation as provided by law. This was allegedly done on the grounds that Clark was not entitled to the appeal provisions set up for conscientious objectors because he did not come under the definition of conscientious objector as stated in the law.

An important part of Clark's petition for a hearing before the Supreme Court

(*Continued on Page 2*)

OLSEN GIVEN AWARD FOR SUPERIOR PERFORMANCE

On Wednesday, June 20, Mr. Victor A. Olsen was awarded a Superior Performance on the Job Certificate and a cash award by Lieutenant General Lewis B. Hershey, because of meritorious effort in behalf of the conscientious objector work program. Mr. Olsen, one of the few civilian executives at Selective Service Headquarters, was awarded a certificate and a $100 check for "superior performance on the job". The award is considered unique due to the fact that he is in complete charge of the conscientious objector work program at Selective Service National Headquarters.

The citation or certificate of merit for Mr. Olsen stated:

"In 1952 the Selective Service System was made responsible for the creation and operation of a conscientious objector work program without funds. by securing the cooperation of state and local governmental and non-governmental organizations, 17,000 agencies were approved for the employment of conscientious objectors.

(*Continued on Page 3*)

Political Leaders Debate End of Draft

Adlai Stevenson, Democratic candidate for President, expressed the opinion that the end of the draft is in view, in a speech before the American Legion in Los Angeles on September 5. "We can now anticipate the possibility—hopefully but responsibly—that within the foreseeable future we can maintain the military forces we need without the draft."

"I want to say two things about this prospect:

"First, I trust that both parties will reject resolutely any thought of playing politics with this issue which strikes as closely into every American home, as the Korean War did in 1952 and susceptible to the same political exploitation.

"Second, I think it is the national will, shared equally by every American—candidate or voter, Democrat or Republican—that the draft be ended at the earliest possible moment consistent with the national safety. I subscribe with all my heart to this purpose."

The following day Vice President Nixon disagreed, stating that he did not see the end of the draft. At his press conference on September 11, President Eisenhower was asked if he anticipated an end to the draft in the "foreseeable future". The President replied as follows: "No, I don't see any chance of ending the draft. When you use the word foreseeable, of course, that is subject to a number of interpretations. But in the immediate future, no, I see no chance of ending the draft and carrying out the responsibilites for the security of this country that must be carried out."

Earlier in the summer a report in the magazine, "U. S. News and World Report", stated that President Eisenhower expects to be able to announce before the

(*Continued on Page 4*)

Published by the National Service Board for Religious Objectors

The Reporter
For Conscience' Sake
Published by the
National Service Board for
Religious Objectors
Room 405, 401 3rd Street, N. W.
Washington 1, D. C.

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SUPREME COURT

(*Continued From Page* 1)

is the contention that administrative officials had no right to "short circuit" persons entitled to administrative appeals simply because the administrative offices do not feel that the registrant is in that category of persons entitled to an appeal.

Clark refused induction a second time on January 8, 1954, and was given a four-year sentence on December 14, 1954.

Several other irregularities in the government's handling of Clark's case provide additional basis for the appeal to the Supreme Court. The exact procedure for the induction ceremony is clearly set up in Army regulations. These regulations make it almost impossible for a person to be unwittingly inducted into the armed forces by requiring that two chances be given to refuse induction and that before the second opportunity there should be a clear warning of the penalty for refusal of induction. However, Clark was only given one chance to refuse induction with no warning of the penalty involved.

Another point involved in the case is the failure of the local board to have posted, or even to have appointed, advisers as provided under the regulations in effect at that time.

However, undoubtedly the most significant aspect of the appeal to the Supreme Court is the question as to the constitutionality of the Supreme Being clause in the CO section of the Selective Service law. The high court has formally refused to consider this question, although asked to do so as recently as last session of the court in the case of Vern Davidson, a Socialist from Southern California. However, Attorney Tietz in his petition for a hearing before the Supreme Court points out significant differences between the Davidson case and the Clark case.

Clark is a member of the First Unitarian Church in Los Angeles and apparently would consider himself a conscientious objector but will not concede that this must imply belief in a Supreme Being as required by the Selective Service Act.

GERMAN YOUTH FORM CO ORGANIZATION

According to the September 12 *Christian Century*, Christian and political youth organizations in West Germany have formed a committee to conserve and expand the rights accorded conscientious objectors under the new German conscription law. "The committee objects to the term 'ersatz service' in the law, holding that it tends to 'defame' conscientious objectors. It asks that the words 'alternate service' be substituted.

One of the committee's main concerns is the type of work which conscientious objectors will be assigned to perform in lieu of military service. The committee has suggested projects such as building construction, land reclamation, avalanche and coastline control, international aid, social welfare work, and disaster service. It further insists that none of the projects should be related to the military or to the arms industry. The suggestion has also been made that the services of conscientious objectors be put at the disposal of the Federal Minister of Labor, assisted by an advisory body of citizens.

Two Million German COs?

Estimates of two million conscientious objectors and pacifists in Germany have recently been made by a political party there. According to the August 9, 1956, issue of *The Reporter*, "The SPD (Social Democratic Party) also estimates there are two million conscientious objectors and pacifists in Germany of voting age."

COs in the Courts

After 36 days in the Allenwood Prison Camp, near Lewisburg, Pennsylvania, CO Ray Derstine decided he would be willing to take a hospital assignment for two months. In August his two-year prison sentence was vacated by Judge Grim in Philadelphia. Derstine was then sentenced to two years on probation on condition that he work at the Friends Hospital in Philadelphia.

* * * *

Seymour Eichel, New York CO who was arrested last June for failure to register for the draft, asked the U. S. District Court to dismiss the indictment but was turned down. Although Eichel had notified officials of his refusal to register, the government took no action in his case until two days before his 26th birthday. Eichel's attorney asked the court to dismiss the indictment because of the long lapse of time between the government receiving notification of the illegal act and the attempt to prosecute. The provisions of the Constitution guaranteeing a speedy trial were cited.

* * * *

Another CO who was arrested just three days before his 26th birthday is Marvin Tamarkin of Miami Beach, Florida. Tamarkin had been seeking recognition as a CO for several years. Although at one time he was classified I-O, he was later classified 1-A. Tamarkin had been unsuccessful in seeking an injunction in the U. S. District Court to require the draft board to give him another pre-induction physical examination. This would have required 21 days until induction and by that time Tamarkin would have reached his 26th birthday and not been eligible for induction.

I-W Drowns in Africa

On June 20, 1956, Larry Keith Kaufman, a 1-W man from McPherson, Kansas, was drowned in a river in the Belgian Congo. Kaufman, along with another 1-W man, had been assigned through the Mennonite Central Committee as a unit affiliated with the Congo Inland Mission.

Kaufman was drowned while on a trip up the Kasai River. While attempting to beach the boat on an island where the group intended to camp for the night, Kaufman was caught in a swift current and carried down the stream. Rescue atempts were unsuccessful.

Memorial services were held for Kaufman on July 1, at the First Mennonite Church of McPherson, Kansas.

Survey Shows Greater Percentage of I-W's Now Than During World War II

A statistical survey has just been completed by NSBRO which shows that the percentage of COs actually assigned to alternative service projects to the total number of persons actually inducted into the armed forces is almost two and a half times as many since 1948 as there were d uring World War II. Since 1948, 2,165,712 men have actually been inducted into the armed forces. 6,341 persons have actually been assigned to alternative service projects. (May 1956) During World War II 10,110,103 men were inducted into the armed forces, and 11,950 persons were assigned to projects of national importance. These figures represent only those persons actually inducted into the armed forces or assigned to alternative service. They *do not* include the total number of registrants or the total number of those claiming to be COs.

This indicates that if a particular group or denomination is maintaining the same percentage of the total number of I-Ws as they did during World War II their witness is increasing numerically. The percentage of the total number of I-Ws claiming to be Brethren since 1948 is 11 per cent, the percentage of Mennonites is 58 per cent, the percentage of Friends is 3 per cent, and the remaining 28 per cent is distributed among various other denominations. During World War II the Brethren had 12 per cent, the Mennonites 39 per cent, the Friends 8 per cent, and other denominations accounted for the remaining 41 per cent.

These figures tell little about a particular group or denomination's numerical witness (other than the number actually assigned to I-W service) because they do not include (1) total number of registrants claiming CO status, but who have not been classified as such; (2) those taking the I-A-O position (the Defense Department will not release these figures); or (3) the number of those persons taking the non-registrant position. Any one or a combination of these factors could increase the number of COs attributable to any singel denomination, or make up for any decrease in the number of I-Ws.

Speculation as to the reasons for the significant rise in the percentage of COs to the total number of persons actually being inducted into the armed forces would undoubtedly include: Better peace education in the churches; better understanding on the part of the local draft boards, who are now more willing to give the I-O classification; the fact that there is a positive form of alternative service not under government control; and the fact that more and more people are becoming aware that a form of alternative service is available.

Groups Interested In Co Film to Meet

A meeting of all interested groups and organizations to discuss the possibility of producing a film on conscientious objection as provided for under Selective Service law has been announced by NSBRO. The meeting will be held on November 19 at the Atlantic Hotel in Chicago.

For several years a number of organizations including NSBRO have been concerned over the lack of information available to the average person with regard to conscientious objector positions provided for under the Selective Service Law. Since 1952 1,300 agencies have employed over 6,376 conscientious objectors who chose alternative service, involving 10,300 man-years of work and more than 30 million dollars. However, impressive as these figures are, NSBRO continues to learn of a significant number of persons who basically are sincere conscientious objectors but who failed to establish their claim as such because (1) they have not heard of the I-O position or (2) they do not hear about it in time to crystallize their thinking before being inducted into the regular armed forces. The difficulty in securing a release from the armed forces after a person is once inducted poses a problem both for the individual objector and for the armed forces. The need for more adequate information concerning the CO position becomes increasingly clear.

In order to meet this need the idea has been conceived of producing a motion picture film portraying the CO position as provided for under Selective Service Law. Different organizations at one time or another have considered producing such a film, but for various reasons they never have.

Items to be discussed at the meeting will include whether or not such a film should be produced and, if so, possible formats, methods of distribution, production costs, etc.

OLSEN AWARDED

(Continued From Page 1)

Within forty months 13,000 agencies employed 6,120 conscientious objectors, involving 10,300 man years of work and more than thirty million dollars. Not one agency has withdrawn its support. The superior ingenuity and perseverance applied by Mr. Victor A. Olsen are largely responsible for this unprecedented and phenomenal program and its success."

Mr. Olsen, also, recently received one of the certificates of merit given to 100 career civil servants by the National Civil Service League. The employees so honored were all nominated by their respective agencies for the career service awards which are given annually by the non-partisan group.

CO Naturalized Despite Lack of Church Membership

John Peter Heiden, 61, received favorable action on his application for citizenship in the North Hampton County Court, Pennsylvania, recently after the U. S. Immigration Service reversed its opinion concerning Heiden's conscientious objection. Earlier the Immigration Service had ruled that Heiden's refusal to bear arms was based only on personal conviction and not "by reason of religious training and belief". The naturalization law in providing for conscientious objectors, however, makes no requirement of church membership. However, it does state that CO beliefs must be "in relation to a Supreme Being" and not merely personal views or a moral code.

The naturalization examiner did not admit that his former ruling was wrong but reported on an elaborate investigation which attempted to prove that although Heiden's membership in the church had ceased ten years before, he was still closely affiliated with it and its teachings. Despite Heiden's assertion that his beliefs in regard to bearing arms were his personal opinion, the Immigration Service insisted otherwise stating that "we cannot agree with that

(Continued on Next Page)

CO NATURALIZED

(*Continued From Page* 3)

thinking . . . they are teachings acquired from the church."

When Heiden had told the court earlier that his conviction against war is personal, naturalization officials claimed that Selective Service would be "in chaos" if making such decisions were up to the individual. In discussing the case with officials at the Washington office of the Immigration Service, NSBRO discovered that this position was only a matter of an individual hearing examiner's opinion. Soon afterward the Immigration Service asked that the case be withheld by the court until further investigation.

FURTHER NOTE ON WORLD WAR I COs

Several REPORTER readers raised questions concerning the article in the last issue regarding the court martial sentences of COs in World War I. Two statistical tables were given, the first showing the length of sentences as originally handed down and the second showing the sentences as executed after review. Even after review and reduction some of these sentences were still as long as 25 or 50 years.

Actually, no World War I conscientious objectors were imprisoned were imprisoned longer than November 23, 1920. Even this, however, was two years after the signing of the Armistice and fifteen months after the release of the last of the English conscientious objectors. While no general amnesty was granted to COs, there was a continual process of releasing and/or pardoning COs during the two years following the Armistice until the last were released.

NSBRO Associate Executive Secretary To Resign

Edgar Metzler, Associate Executive Secretary of NSBRO, has submitted his resignation as of December 31, 1956. Mr. Metzler came to NSBRO in July, 1954.

He will be leaving Washington to enter the ministry at the First Mennonite Church, Kitchener, Ontario.

DRAFT DEBATE

(*Continued From Page* 1)

end of the year, possibly during the coming campaign, that the time is in sight when it will no longer be necessary to draft young men for military service. The reason for this prospect is the projected cuts in the armed forces between now and 1960.

The present draft law was extended last year for four years until June 30, 1959. With armed forces at their present size, and even with anticipated reductions, the plain fact is that without the draft volunteering simply does not supply the needs of the military forces. The close correlations between the size of draft calls and the number of volunteers indicates that the military establishment cannot attract young men and must resort to coercion in order to maintain the armed forces.

There is also increasing evidence that the Pentagon has never given up its hope for a compulsory reserve system despite the defeat of its reserve plans in the 1955 session of Congress. It now appears that the tremendous pressure of the Department of Defense for a compulsory reserve program will be repeated in the next session of Congress.

On September 1, Assistant Secretary of Defense Carter Burgess, chief architect of the program of compulsory reserve, stated that if the new six-months military reserve program does not continue on a "steady, growing basis," it may be necessary to ask Congress for authority to draft trainees. He stated that the results of the program, which allows young men to serve six-months and then complete their military obligation with seven and a half years of part-time reserve training, have not developed as expected. Burgess stated that the Department of Defense will review the whole reserve program again in December but that they are definitely considering asking the new Congress for a draft provision for the reserve program.

Alabama Selective Service Gives Opinion of CO Program

(The following description of the current CO program is from the Alabama State Headquarters of Selective Service. With a few exceptions the State Directors of Selective Service seem to have similar favorable opinions of the CO situation.)

"Conscientious objectors, under the 1948 Act, were placed in a position of greater benefit to both themselves and the Nation than was the case under the 1940 Act.

"Instead of the old lottery system called for under the 1940 Act, under the new system numbers were allotted in sequence of date of birth, the oldest being Number 1, the next oldest Number 2, and so on. Each State had its number in alphabetical sequence, thus Alabama was Number 1. Each local board in a State was assigned a number, thus no two registration numbers in the United States were the same, because they were each formed of all four. An Alabama registrant whose last name was Aaron, who was born January 1, and was registered with Local Board No. 1, having been born in 1926, would have had 1-1-26-1 as his Selective Service number. No other of the millions of registrants in the States would have that number.

"Classification, under the 1948 Act, was basically the same as under the 1940 Act. Symbolisms were different in some cases, but the elasticity of the system was retained so as to permit a policy of leniency, or of tightness, depending upon the manpower needs in relation to the national health, safety and interest.

"Instead of practically wasted manpower in the CO camps, as under the 1940 Act, under the 1948 Act conscientious objectors opposed to both combatant and noncombatant service were subject to assignment to work (of a non-military nature) of national importance for they were qualified. Such work was at the local standard rate of pay for the job performed.—S. S. in Alabama."

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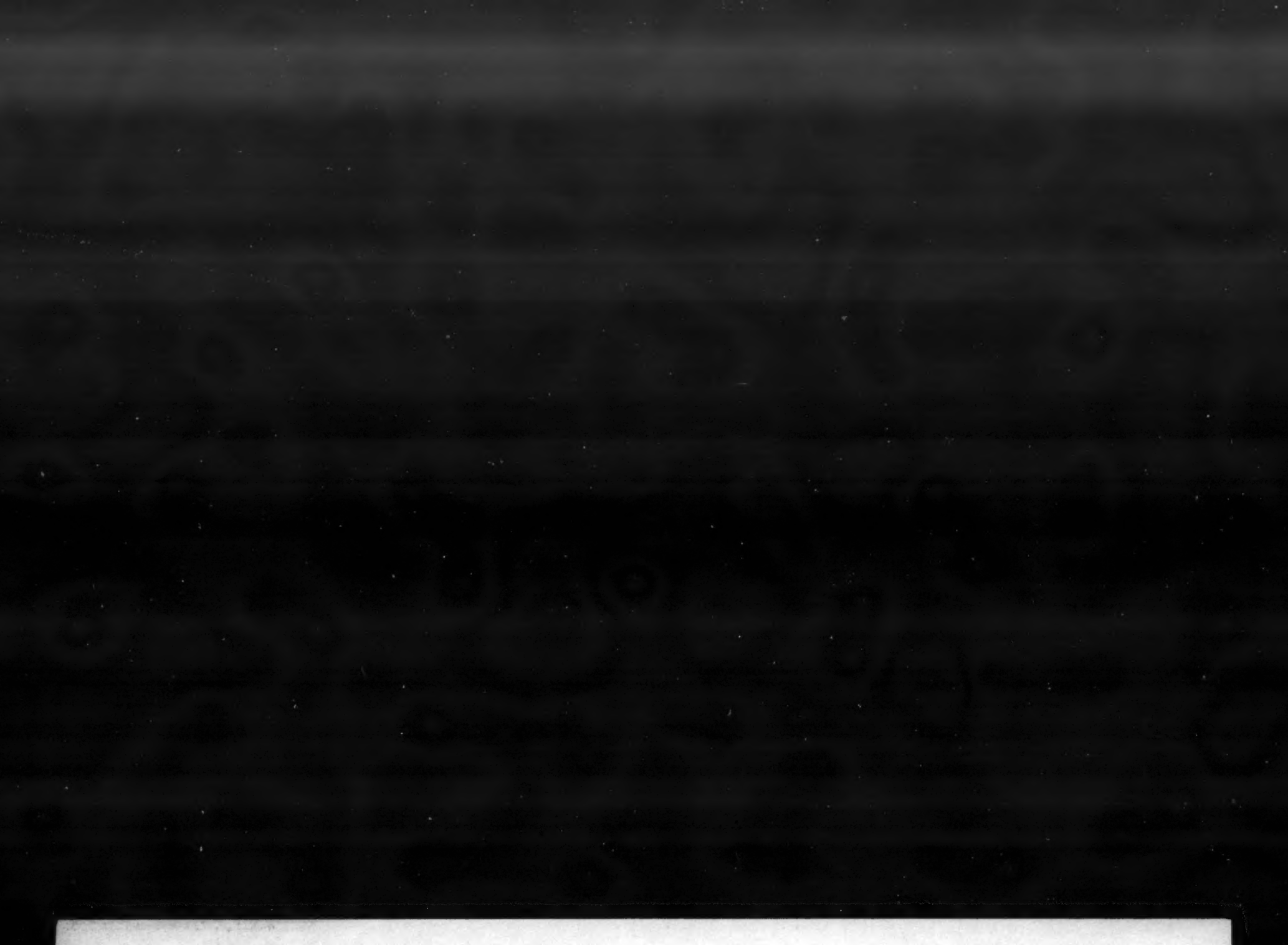
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